

Agricultural Marketing Service, USDA

§ 28.23

classification data previously issued by a Classing Office with respect to samples purporting to represent the same cotton shall be returned before such redrawn samples are classed.

[52 FR 30881, Aug. 18, 1987]

§ 28.19 Withdrawal or rejection of classification request.

Any classification request may be withdrawn by the applicant at any time before the classification of the cotton covered thereby, subject to the payment of such fees, if any, as may be prescribed in these regulations. Any classification request may be rejected by the Area Director or the Head of the Quality Control Section for noncompliance with the act or this subpart.

[52 FR 30881, Aug. 18, 1987]

LICENSING OF WAREHOUSES AND GINS FOR SAMPLING

AUTHORITY: Sections 28.20 to 28.24 issued under sec. 2, Pub. Res. 72-73, 47 Stat. 1621 (7 U.S.C. 51b); sec. 3c, Pub. L. 75-28, 50 Stat. 62 (7 U.S.C. 473c).

SOURCE: Sections 28.20 through 28.24 appear at 42 FR 24711, May 16, 1977, unless otherwise noted.

§ 28.20 When license is required.

Samples for Form A determination shall be accepted under this subpart from licensed warehousemen only. Samples for classification pursuant to §§ 28.901 through 28.917 shall be accepted from licensed gins or warehouses. No license is required to sample cotton for Form C or Form D determination.

§ 28.21 Eligibility and application.

Any cotton warehouse or gin which may desire to submit samples for determination or classification for which a license is required under § 28.20 shall be eligible for a license. Application for licenses to draw and submit samples shall be submitted by warehouses and gins on forms furnished by the Division.

§ 28.22 Authority granted by license.

Licenses issued by the Division shall authorize the warehouse to draw and submit samples from cotton stored in the warehouse for Form A determina-

tion or for classification pursuant to §§ 28.901 through 28.917. Licenses issued by the Division shall authorize gins to draw and submit samples from cotton ginned at the gin for classification pursuant to §§ 28.901 through 28.917. Licenses shall be valid for a period of five years.

§ 28.23 Suspension or revocation of license.

(a) Any license issued to a warehouse or gin to sample cotton may be suspended or revoked, following notice and opportunity for hearing, if the licensee has knowingly or carelessly sampled cotton improperly, or has submitted improper samples for classification, or has violated any provision of the Act or the regulations, or has used the license, or allowed it to be used, for any improper purpose.

(b) *Procedure.* (1) All cases arising under this paragraph shall be conducted under the Uniform Rules of Practice, 7 CFR 1.130 *et seq.*, and instituted upon a complaint filed by the Administrator.

(2) In all cases except those involving willfulness, or in which the public health, interest, or safety otherwise requires, prior to the institution of a formal proceeding, the Administrator shall give written notice to the licensee of facts or conduct which appear to warrant institution of such a proceeding and shall afford the licensee the opportunity, within a reasonable time, to demonstrate or achieve compliance with the Act and regulations.

(c) *Suspension pending adjudication.* In any situation where the integrity of sampling procedures would be seriously jeopardized if a license remained valid pending formal adjudication, the Administrator may temporarily suspend the license effective on or after the third day after mailing notice thereof to the licensee's last known address. Notice of temporary suspension may be made at or after the filing of a complaint and shall contain the reasons for the action.

(d) *Conditional suspension.* (1) The Administrator may temporarily suspend a license, without hearing, for a correctable cause. Such suspension, after appropriate corrective action is taken, will terminate.

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(2) Written notice shall be given to the licensee in advance of a temporary suspension if practicable, or within 2 days of oral notice, stating the reasons and grounds for temporary suspension.

(3) A licensee may request a formal hearing procedure following receipt of oral or written notice of temporary suspension.

(e) During any period in which the cotton sampling license of a warehouse or gin is suspended or revoked, the Division will not accept any samples from the licensee for Form A determination, or for classification pursuant to §§ 28.901 through 28.917.

§ 28.24 Surrender of license certificate.

In the event of suspension or revocation of a license, the licensee shall promptly surrender the license to the Division.

DRAWING, SUBMISSION AND DISPOSITION OF SAMPLES

§ 28.25 Samples for Form A determination.

Samples for Form A determination shall be drawn, handled, identified, and shipped by a licensed warehouse according to the methods and procedures specified in this section. Any samples or set of samples which do not meet these specified requirements may be rejected by the Area Director.

(a) Samples shall be freshly drawn.

(b) Each sample shall consist of two portions, one drawn from each side of the bale. Each portion shall be at least six (6) inches wide and approximately twelve (12) inches long and shall weigh at least three (3) ounces.

(c) Where it is necessary to draw two sets of samples, a single cut should be made in each side of the bale, and the portion of cotton removed from each cut should be broken in half across the layers to provide two complete samples. In those cases where this method would result in samples of insufficient length, it will be acceptable to split the sample lengthwise along the layers provided the outside portion from each side is submitted for the official classification.

(d) Dressing, trimming, or discarding part of the sample is prohibited. No part of the cotton or pieces of bagging,

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leaf, grass, dirt, sand, or any other material shall be removed from either side of the sample.

(e) A coupon showing the correct warehouse bale number and name and address of warehouse shall be placed between the two portions of each sample.

(f) Samples shall be identified and sacked immediately after they are cut without further handling prior to shipment to the Classing Office.

(g) Samples shall be addressed to and mailed, shipped, or delivered direct to the Classing Office serving the territory in which the warehouse is located. Samples shall in no case be consigned or routed through the owner or custodian of the cotton. Samples mailed or shipped shall be prepaid.

(h) The Area Director may require that any licensed warehouse shall provide the crop year, gin name and gin bale number for each sample submitted whenever the Area Director deems that such information is necessary in order to assure that each sample is properly identified with the correct bale of cotton.

(i) The licensed warehouse shall cooperate with employees of the Division making inspections of sampling procedures, and shall draw or permit the drawing of such additional samples, without charge as may be deemed necessary to appraise sampling procedures.

(Sec. 2, Pub. Res. 72-73, 47 Stat. 1621 (7 U.S.C. 51b); sec. 3c, Pub. L. 75-28, 50 Stat. 62 (7 U.S.C. 473c), sec. 10, 42 Stat. 1519, sec. 3c, 50 Stat. 62; 7 U.S.C. 61, 473c)

[28 FR 10633, Oct. 3, 1963, as amended at 42 FR 24712, May 16, 1977; 45 FR 46783, July 11, 1980; 52 FR 30881, Aug. 18, 1987]

§ 28.26 Samples for Form C determination.

Samples submitted for Form C determination shall be drawn under the supervision of a Division employee who shall retain custody or control of the samples until they are shipped prepaid or delivered at the applicant's expense to the Classing Office serving the territory in which the bales of cotton are located.

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